

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

WARREN DURHAM JR.	:	CA. NO. 02-82-ERIE
Plaintiff	:	
	:	District Judge Cohill
	:	Magistrate Judge Baxter
v.	:	
JAMES D. WASHBURN, individually, in	:	
his capacity as a police officer for the City	:	
of Erie; DOMINIC DILULLO, individually	:	
in his capacity as police officer for the City	:	
of Erie; WEST END AUTO BODY, INC;	:	
CITY OF ERIE and others not known	:	
presently to the Plaintiff,	:	

JOINT MOTION FOR DISMISSAL OF ACTION

AND NOW, come the Defendants, by and through their counsel, and file this Joint Motion for Dismissal of Action, a statement of which is as follows:

1. On February 20, 2007, Plaintiff, Warren Durham, Jr., executed a Release of All Claims in consideration of the sum of \$2,000.00 paid by Defendants, City of Erie and West End Auto Body, Inc. The City of Erie paid the sum of \$1,250.00 and West End Auto Body, Inc. paid \$750.00 to Mr. Durham for a total payment of \$2,000.00. A copy of the Release of All Claims is attached hereto and made a part hereof just as if fully set forth and marked as Exhibit "A".

2. As a condition of the aforesaid consideration, Plaintiff, Warren Durham, Jr., has agreed to the discontinuance of record, with prejudice, all actions commenced by Plaintiff against all parties which relate in any way to the action filed in the United States District Court for the Western District of Pennsylvania at docket number 02-82 Erie.

3. Pursuant to the Release, Exhibit "A", Plaintiff further agrees "to pay all fees and costs to discontinue of record, with prejudice, all actions commenced by me against" all named Defendants to this action.

4. As a Pro Se litigant, Plaintiff is not entitled to any attorney's fees under 42 U.S.C. §1988. See: *Pitts v. Vaughn*, 679 F2d 311 (3rd Cir. 1982).

5. All matters with regard to settlement in accordance with the terms and conditions of the Release of All Claims, Exhibit "A", executed by the Plaintiff have been fully complied with by the parties to this action.

4. Defendants request an order be issued by this Honorable Court dismissing this action, with prejudice, as against all Defendants.

WHEREFORE, Defendants, City of Erie and West End Auto Body, Inc., respectfully request this Honorable Court grant this Joint Motion for Dismissal of the within action.

Respectfully Submitted,

By: /s/Gerald J. Villella, Esq.
Gerald J. Villella, Esquire
626 State Street, Room 505
Erie, PA 16501
814/ 870-1230
Counsel for Defendants, Washburn,
DiLullo, and City of Erie

By: /s/ David G. Ridge, Esquire
Ridge & McLaughlin
246 West Tenth Street
Erie, PA 16501
814/454-1010
Counsel for Defendant,
West End Auto Body, Inc.